

Remarks

Claims 1-30 are pending.

Response to Restriction Requirement

In the Restriction Requirement, the Examiner required election of one of the following groups of claims:

Group I: claims 1-5, 10, 11, 14 and 15; drawn to methods for the detection of an oncogenic HPV E6 protein in a sample using a PDZ domain polypeptide;

Group II: claims 6-9; drawn to methods for the detection of an oncogenic HPV E6 protein in a sample using a PDZ domain polypeptide and a second E6 binding partner;

Group III: claims 16-20, drawn to compositions comprising a polypeptide comprising a PDZ domain and a second binding partner for an E6 protein.

The Office explicitly states that the inventions of Groups I, II and III are distinct.

The Applicants firstly note that as set forth in M.P.E.P. 802.01, "The term "distinct" means that two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art)."

(upper case in the original)

The Examiner is directed towards the upper case wording in the preceding paragraph: *distinct* subjects are novel and unobvious over each other.

Accordingly, the Applicants note the explicit acknowledgement by the Examiner that a method for the detection of an oncogenic HPV E6 protein in a sample using a PDZ domain polypeptide and a second E6 binding partner is novel and unobvious over a method for the detection of an oncogenic HPV E6 protein in a sample using a PDZ domain polypeptide.

Applicants hereby elect to prosecute the claims of Group II, with traverse.

The Applicants also respectfully urge the Examiner to rejoin the claims of at least Group I with the elected claims of Group II for examination in this application for the following reasons.

The MPEP allows an Examiner to examine otherwise patentably distinct sets of claims if to so would not impose an undue burden on the Examiner. M.P.E.P. § 8.03 states that:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

(emphasis added by Applicants)

In the present case, the claims of Group II include all of the elements found in the claims of Group I. Accordingly, little, if any, additional searching should be required for the claims of Group I. In view of this, the Applicants submit that the examination of the claims of Groups I and II can be searched and examined together additional burden on the Examiner.

As such, examining the claims of Group I and the claims of elected Group II together in the present application clearly does not impose an undue or serious burden on the Examiner. In the absence of such an undue or serious burden, the Examiner is clearly instructed by the MPEP to examine the entire application. Therefore, the Examiner is respectfully requested to rejoin the claims of Group I and with the claims of elected Group II and to examine all the claims together in the present application.

Species election

The Office requests that the Applicants elect a single species of the following, for prosecution on the merits:

- a) a single species of PDZ domain comprising polypeptide.

The Applicants hereby elect: **a) MAGI-1 PDZ domain 2** comprising polypeptides for prosecution on the merits.

All claims are generic to the elected species.

This species election is traversed because a search of all PDZ domain comprising polypeptides would not be unduly burdensome for the Examiner.

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Applicants reserve the right set forth in 37 C.F.R. §1.114 and M.P.E.P. §818.03(c) to petition the Commissioner for review of the requirement, which petition may be deferred until after final action on or allowance of claims to the invention elected.

Should the restriction requirement be maintained nonetheless, Applicants expressly reserve the right under 35 USC §121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of this application.

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The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number VITA-008.

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Respectfully submitted,
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